

AUG 07 2006

**CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS**

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

ANTONIO RODRIGUEZ-PRECIADO,

Defendant - Appellant.

No. 05-30565

D.C. No. CR-96-00311-HA-02

MEMORANDUM^{*}

Appeal from the United States District Court
for the District of Oregon
Ancer L. Haggerty, District Judge, Presiding

Argued and Submitted July 24, 2006
Portland, Oregon

Before: REINHARDT and GRABER, Circuit Judges, and LEW, District Judge.**

Rodriguez-Preciado appeals the district court's judgment after we remanded pursuant to *United States v. Ameline*, 409 F.3d 1073 (9th Cir. 2005) (en banc), to determine whether the district court would have imposed a materially different

^{*} This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by Ninth Circuit Rule 36-3.

^{**} The Honorable Ronald S.W. Lew, United States District Judge for the Central District of California, sitting by designation.

sentence had it known that the Sentencing Guidelines were advisory. The district judge responded that he would not have imposed a materially different sentence. Under these circumstances, the only issue properly presented on this appeal is the reasonableness of Rodriguez-Preciado's sentence. Based on the entire record, we find that the district judge properly considered the sentencing factors under 18 U.S.C. § 3553(a) and that Rodriguez-Preciado's sentence, which is at the low point in the Guidelines range, is reasonable. We also find that the district judge's reference to "§ 3553(1)," rather than to "§ 3553(a)," in his order upon remand was a scrivener's error.

AFFIRMED.